

IN THE  
Circuit Court of Cook County  
First Judicial Circuit

FILED

DEC 02 2004

DOROTHY BROWN  
CLERK OF CIRCUIT COURT

Case No. 98 CR 30064

RECEIVED

DEC 01 2004

Kevin Patterson  
Plaintiff,  
  
v.  
  
People of the State of Illinois  
Defendant

PROOF/CERTIFICATE OF SERVICE

CLERK OF CIRCUIT COURT  
CRIMINAL DIVISION

TO: Dorothy Brown-Clerk

TO:

Richard Divine

Circuit Court of Cook County  
2650 S. California  
Chicago, Illinois 60608

Cook County States Attorney  
2650 S. California  
Chicago, Illinois 60608

PLEASE TAKE NOTICE that on NOVEMBER 24, 2004, I have placed the documents listed below in the institutional mail at Taylorville Correctional Center, properly addressed to the parties listed above for mailing through the United States Postal Service: Post Conviction Petition with supporting memorandum of law.  
Proof/Certificate of Service

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I declare, under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge.

DATE: November 24, 2004

/s/ Kevin Patterson  
NAME: Kevin Patterson  
IDOC#: A83515

Taylorville Correctional Center  
P.O. BOX 900  
Taylorville, IL 62568

STATE OF ILLINOIS

SS

COUNTY OF Christian

IN THE

Circuit Court of Cook County

First Judicial Circuit

**FILED**

DEC 02 2004

DOROTHY BROWN  
CLERK OF CIRCUIT COURT

People of the State  
of Illinois

Respondent

vs

Kevin Patterson

Petitioner

CASE NO. 98 CR 30064

**NOTICE OF FILING**

TO: Dorothy Brown-Clerk

TO: Richard Divine

TO:

Circuit Court of Cook, Co. States Attorney

2650 S. California

2650 S. California

Chicago, Ill. 60608

Chicago, Ill. 60608

1 Original & 1 copy

1 copy(ies)

copy(ies)

PLEASE TAKE NOTE that on the 24<sup>th</sup> day of November, 2004, I have filed, through the U.S. Mail, with the above named parties, the below listed documents (number of copies & originals filed are listed below the addresses of the parties):

- 1) POST CONVICTION /w Supporting MEMORANDUM OF LAW
- 2) \_\_\_\_\_
- 3) \_\_\_\_\_
- 4) \_\_\_\_\_
- 5) \_\_\_\_\_
- 6) \_\_\_\_\_
- 7) \_\_\_\_\_
- 8) \_\_\_\_\_

**AFFIDAVIT OF SERVICE**

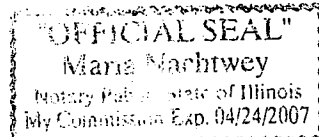
I, Kevin Patterson, being first duly sworn on oath, deposes and avers that he/she has caused the above stated documents in the above stated amounts, to be served upon the above listed parties by placing the same in the U.S. MAIL BOX on Housing Unit # 1 located at Taylorville Correctional Center in Taylorville IL for delivery as 1st Class Mail.

s/s Kevin Patterson

NAME: Kevin Patterson

IDOC Reg. No. A83515

Subscribed and sworn to before me this 17<sup>th</sup> day of NOVEMBER, 2004



Maria Nachtwey  
NOTARY PUBLIC

In the Circuit Court of  
Cook, County

People of the State of Illinois )

vs )

Kevin Patterson )

IND. NO: 98 CR 30064

**FILED**

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DOROTHY BROWN  
CLERK OF CIRCUIT COURT

## PRO SE POST-CONVICTION PETITION

Now comes Kevin Patterson, Defendant, pro se, and petitions this Honorable Court to grant him relief under post-conviction act. (725 ILCS 5/122-1. 1992)

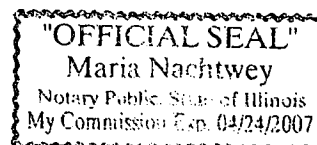
In support of this petition, Defendant states:

1. He was convicted of the offense(s) of, Attempted Armed Robbery, after a bench trial or entered a guilty plea before the Honorable Ronald Himel and was sentenced to 18 years on February 4, 2002.
2. He appealed his conviction to the Illinois Appellate Court and that court affirmed his conviction in part and reversed the sentencing portion of said conviction on June 19, 2003, under Appellate No. 02-0694.
3. He did Petition the Supreme Court of Illinois to take his case and his petition for leave to appeal was denied on DECEMBER 3, 2003 under Supreme Court No: 96900.
4. Petitioner appeared before the Honorable Daniel Darcy on June 15, 2004, and was resentenced pursuant to Appellate Court order of June 19, 2003 under Appellate No: 02-0694.
5. Petitioner filed an appeal from the resentencing of June 15, 2004 to the Illinois Appellate Court on and no issue of sentencing has been raised as a claim in this post conviction petition.
6. This Petition was mailed to the Clerk of the circuit court within the time frame enumerated under 725 ILCS 5/122-1
7. Petitioner's Constitutional Rights were violated as stated in this Petition and the attached memorandum of law.

Kevin Patterson, Defendant, pro se, states, under penalty of perjury, that the facts set out in this petition are true and correct to the best of his knowledge and belief.

Signed: Ken PattersonSubscribed and Sworn to before this 17TH day of November,A.D., 2004.Maria Nachtweg

Notary Public



## Issues Presented for Review

Petitioner on the Post Conviction memorandum alleges that both his trial attorney and his Appellate Attorney have performed below their objective reasonableness and as a result were ineffective in their duty in violation of the guarantees of the sixth amendment to the right of effective assistance of counsel in a criminal prosecution

1. The trial attorney was ineffective on the following grounds:

A. Petitioner's trial attorney refused to file a motion to quash the arrest based on the fact that Petitioner was held for six (6) days prior to being brought before a judge for a first appearance and that more than forty-eight (48) hours as prescribed by law for judicial determination of probable cause had long expired before the Petitioner was brought to court.

B. Counsel was ineffective for his failure to highlight the discrepancies in the conduct detailed in police reports concerning the allegation of a specific "flash message" reportedly used to assist in the apprehension of the petitioner. The content of these reports concerning the "flash message" was in contradiction of the facts alleged by the victims of the crime as well as on-scene reports of Chicago Police Department R/O's. Counsel's failure to file for suppression of this alleged perjured information and reports is viewed by the petitioner as issue of ineffective counsel.

C. Trial attorney was ineffective in denying the petitioner the opportunity to testify when petitioner asked that he be put on the stand to testify.

D. The trial court was incorrect in failing to dismiss the indictment by the Grand Jury based on the presence of perjured testimony and its use in obtaining the indictment in violation of petitioner's due process rights.

2. The Appellate Attorney was ineffective as counsel on five (5) grounds:

A. For not consulting with petitioner in any way or form before filing an appellate brief on direct appeal of this case.

B. Appellate Attorney was ineffective for failure to raise an ineffective assistance of trial counsel claim based on the claims presented in this Petition under argument one (1), A, B, C, and D.

C. Appellate Attorney was ineffective for not arguing in her appellate brief that the indictment charging petitioner for the commission of the crime in this case consist of perjured testimony and that it is insufficient to support the conviction.

D. Appellate Attorney was ineffective for failure to raise "Plain Error" by trial court in its finding where the allegation by the victims in the record did not support the indictment and the evidence at trial did not support the indictment.